

In the Matter of Merchant Mariner's Document No. Z-58526-D3
Issued to: ROBERT J. CONROY

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ROBERT J. CONROY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 25 March, 1954, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-58526-D3 issued to Robert J. Conroy upon finding him guilty of misconduct based upon five specifications alleging in substance that while serving in several different capacities on various American steamships and while acting under authority of the document above described, he failed to join the vessel on which he was serving on four occasions and he deserted his vessel upon one occasion.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence certified copies of entries contained in the Official Logbooks of the five ships involved in the above alleged offenses.

In defense, Appellant offered in evidence his own sworn testimony.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the five specifications. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-58526-D3 and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal had been taken, and it is urged that Appellant never wilfully failed to join or intentionally deserted a ship; concerning the desertion charge, Appellant fell asleep ashore after his request to be

relieved had been refused; revocation of his document is depriving Appellant of a livelihood in his chosen occupation and other personal benefits such as union privileges; Appellant has been going to sea since 1937 and he has never caused any trouble while on board ship; the Examiner and Investigating Officer were prejudiced; the old offenses should have been brought up for hearing when committed; and justice was not done by revoking Appellant's document. In conclusion, Appellant respectfully requests that the order of revocation be set aside.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On the various dates appearing below, Appellant was in the service of the specified ship and acting under authority of his Merchant Mariner's Document No. Z-58526-D3.

On 23 March, 1950, Appellant was serving as an engineer maintenance man when he failed to join the SS FORT STEPHENSON upon her departure from Rotterdam, Holland. Appellant left the vessel at 1535 and did not return prior to the ship's departure at 1830.

On 14 November, 1950, Appellant was in the service of the SS KAPOsia in the capacity of a pumpman. On this date, Appellant carried his gear ashore after stating that he was going to quit. He left the ship with the intent not to return and he was not on board when the ship departed from Norfolk, Virginia, on 14 November, 1950. Appellant deserted the vessel on this date.

On 30 July, 1951, Appellant was serving in the capacity of deck engineer on the SS STOCKSTAR. He failed to join the ship by not reporting on board prior to 2126 when the ship sailed from Honolulu, T. H., on this date.

On 27 December, 1951, Appellant failed to join the SS ILIAMNA on which he was serving as an oiler. Appellant removed his clothing from the ship on the night of 26-27 December and he did not return on board prior to the departure of the ship from San Francisco, California, on 27 December.

On 16 April, 1952, Appellant was in the service of the USNS MISSION DE PALA in the capacity of chief pumpman when he failed to join the ship upon her departure from Naples, Italy.

Appellant has been going to sea since 1937. His prior record consists of failing to join ships on six other occasions.

OPINION

The points raised on appeal are not conducive to altering the order of revocation imposed by the Examiner. The present offenses are supported by substantial evidence in the nature of entries in the Official Logbooks of the various ships on which Appellant served. With respect to the desertion specification, the Examiner rejected Appellant's testimony that he had not taken his gear

ashore. I concur with this and conclude that there is ample evidence to show that Appellant intentionally did not return to the ship rather than that he accidentally missed the ship after falling asleep while ashore. Concerning the failure to join specifications, it is no excuse that Appellant did not wilfully miss the ships.

Considering the present offenses together with Appellant's prior record, the order of revocation was entirely justified. The numerous offenses of a similar nature indicate Appellant's complete disregard of his duties and obligations under the Shipping Articles of various ships on which he sailed between 1944 and 1952.

There is no evidence in the record that either the Examiner or the Investigating Officer were prejudiced against Appellant; and Appellant has presented no showing that he would have had a better defense if the older offenses herein had been brought to a hearing at an earlier date.

Despite the personal hardship involved, the order of revocation will be sustained. But in view of the comparatively minor nature of the individual offenses of failure to join, Appellant may apply to the Commandant (MVP) for a new document after a period of one year in accordance with Title 46 Code of Federal Regulations 137.03-30(b).

ORDER

The Order of the Examiner dated at New York, New York, on 25 March, 1954, is ~~REVERSED~~ **AFFIRMED**.

J. M. SHIRSHFIELD
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 24th day of September, 1954.